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The Clash of Human Rights Principles and National Security Concerns: The Implications of the Readmission Agreement Between Ukraine and the European Union on the Rights of Unaccompanied Migrant Children

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The clash of human rights principles and national security concerns: the implications of the Readmission Agreement between Ukraine and the European Union on the rights of unaccompanied migrant children

Table of Contents:

- I. Preface and Methodology
- II. Background
- III. Unaccompanied asylum seekers
- IV. Unaccompanied irregular migrants
- V. Legal mechanisms that guarantee protection to all children under international law
- VI. Challenges and opportunities of international law implementation to ensure protection of unaccompanied migrant children
- VII. The case of Ukraine and the ‘potential’ implications of the Readmission Agreement on the rights of children migrants
- VIII. The violation of children’s rights upon their return to Ukraine
- IX. Findings and Conclusions
- X. Attachments: works cited, interactive research/work journal, interactive log

I. Preface and Methodology

This study is the analysis of the efforts of the European Union to stop the flow of irregular migration to the European Union and its impact on the lives of unaccompanied migrant children, who find themselves in a transit zone between the EU and Ukraine. This study will provide a general overview of the issue of unaccompanied migrant children, the analysis of international legal protections granted to unaccompanied migrant children, and the overview of the discrepancies between international law and actual practices based on the example of Ukraine in the context of bilateral Readmission Agreement between Ukraine and the European Union.

The study was organized through the series of loosely structured interviews with the experts from major organizations, who are involved in the issues of migration and migrant children, such as International Organization for Migration, The United Nations High Commissioner on Refugees, Geneva Center for Security Policy, and The United Nations Children's Fund. As a result of the interactive research, the broad topic about unaccompanied migrant children was narrowed down to the case study of Ukraine and the analysis of the implications of the Readmission Agreement between Ukraine and the European Union on the rights of unaccompanied migrant children granted by international law. The actual case study is primarily based on the fact-finding field studies of Human Rights Watch conducted on Ukrainian-EU border, as the evidence for the violations of the rights of unaccompanied children on both sides. Other primary sources were used to review the international legal instruments available for the protection of unaccompanied migrant children, which include the Convention on the Rights of the Child and the Convention on the Status of Refugees with the guidelines from IOM's International Migration Law digest *Human Rights of Migrant Children*, Separated Children in Europe Programme report and The Statement of Good Practice, the Readmission

Agreement between Ukraine and the EU and its overviews, *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe* book, and The World Migration Report.

Additional sources and materials, some of which were suggested and provided by the experts, included other international legal instruments and bi-literal agreements, reports, guidelines, overviews, and online interviews.

II. Background

There is a broad consensus that irregular movements across the border are increasing and are likely to increase even more in the years to come.¹ However, the current and future challenges of irregular migration are not limited to the increasing number of people who enter other countries without proper documentation. Irregular migration becomes a very complex phenomenon in terms of the routes migrants choose and the means they use to reach their final destinations. Until recently, migration has been discussed mostly in terms of adult male movement; women and children have been viewed only as migrating dependents.² However, today because of the increasing variety of the groups of migrants, the states often face “difficulties in distinguishing the particular needs and rights of various types of persons forming part of irregular migration flows – for example, asylum-seekers or unaccompanied minors.”³ All modern states face the challenge of reconciling the need to protect national borders and fulfilling their obligations to protect human rights at the same time. This becomes a special challenge when it comes to the rights of vulnerable groups of unaccompanied minors, those who seek asylum and are eligible for it and those who migrate for different reasons. The discrepancies between the need

¹ “World Migration Report 2010, The Future of Migration: Building Capacities for Change.” International Organization for Migration. Ed. Khalid Koser, Frank Laczko, (2010), p.24

² “Human Rights of Migrant Children.” International Migration Law, N 15, International Organization for Migration, (2008), p.9

³ “World Migration Report 2010, The Future of Migration: Building Capacities for Change,” p.30

to protect the national borders and the obligations to protect rights of migrant children will be discussed in this paper by focusing on Ukraine, as one of the important transit countries in Europe for migrants who are trying to reach the European Union.

The number of unaccompanied minors traveling alone has been increasing in recent years. Currently, there are approximately 20,000 unaccompanied minors seeking asylum in Europe each year.⁴ However, According to the recent Separated Children in Europe Programme report, the actual numbers are much higher because a vast majority of children might not be claiming asylum, is classified as economic migrants, or those who seek family reunification and, therefore, they fall within the general statistical data of migrants.⁵ For the purpose of this paper we will refer to those under 18 years of legal age as children, as it is defined in Article 1 of the Convention on the Rights of the Child (hereafter, CRC),⁶ and those who are migrating alone as unaccompanied children. “‘Unaccompanied children’ (also called unaccompanied minors) are children, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.”⁷ Among the refugees, trafficked, and migrant children, who arrive in the European Union, many are separated from their parents, legal guardians, or habitual care-givers. According to Dr. Khalid Koser from Geneva Center for Security Policy, as a result of the reinforcement of security-related migration policies in the European Union, asylum seekers, along with other migrants, find that legal channels of immigration, such as obtaining a visa, are becoming more blocked. Therefore, many migrants, including unaccompanied children, take on a dangerous journey outside of the legal

⁴ Ruxton, Sandy. “Separated Children and EU Asylum and Immigration Policy.” Save the Children, (November, 2003), p.5

⁵ Ibid., p.5

⁶ The Convention on the Rights of the Child, (20 November, 1989)

⁷ Committee on the Rights of the Child, General Comment N6, Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, CRC/GC/2005/6, (1 September 2005), par.7

immigration system where they often have to employ human smugglers to reach the EU and face many abuses on the road and at the places of their final destinations.⁸

IV. Unaccompanied asylum seekers

The states always face a challenge of distinguishing an asylum seeker from the migrants, who are entering the country for different purposes, such economic reasons, family reunification, or those who are the victims as trafficking. All children, who migrate alone and cross the borders of the country of their nationality or citizenship without proper documentation, fall under two broad categories defined by international law, which we will consider for the purpose of this project: asylum seekers and irregular migrants. First of all, in order for a child to be eligible for asylum, he or she must fulfill the requirements applicable to adults, which are outlined in the United Nations Convention on the Status of Refugees (1951) and the Protocol to the Convention on the Status of Refugees (1967), signed by all members of the European Union. According to the Convention, a person should have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country.”⁹ In addition, in order to be eligible to asylum, a child must ask for asylum when entering another country. However, according to the representative from the United Nations High Commissioner on Refugees, the fact that children “are not articulate enough or do not have the proper vocabulary to express their need for asylum,” complicates the situation. Children might be lacking the understanding of the circumstances under which they were forced to leave their country by their parents or other relatives, or might not explain well what forced

⁸ Marvis Leijla. “Human Smugglers and Social Networks: Transit Migration Through the States of Former Yugoslavia.” Working Paper N 72, (December 2002) UNHCR Evaluation and Policy Analysis Unit, p.4

⁹ The Convention on the Status of Refugees, (1951), Article 1

them to leave. In most cases children do not understand their rights or their status, and information available to them might be not be adapted to the comprehension of underage readers. In this manner, even in the cases of persecution children might be unable to prove the “well-founded fear of persecution,”¹⁰ which is the main condition to be eligible to apply for asylum. At the same time, children might manifest their fear in a different way than adults, in which case it is a responsibility of the state’s officials to determine whether this fear exists but is not expressed in a clear way.¹¹ Moreover, in many cases those children, who were successful at crossing the border, are afraid to approach authorities to explain their situation because of their fear to be persecuted for illegal crossing, because they do not speak the language, or have no documentation to prove their age or identity.¹² In these cases children often become vulnerable to human traffickers and face exploitation and abuse being outside of the system.

V. Unaccompanied irregular migrants

At the same time, those who migrate, including children, migrate for different reasons.¹³ Therefore, children who are unable to prove the fear of persecution by supporting it with an objective situation, those who do not know about their rights to apply for the asylum and are not properly evaluated by the immigration services, or those who are migrating for economic or personal reasons, are falling under the category of irregular migrants rather than asylum seekers. According to International Organization for Migration representatives, the concern over the treatment and care of unaccompanied migrant children throughout their journey has been growing

¹⁰ The Convention on the Status of Refugees, (1951), Article 2

¹¹ “Human Rights of Migrant Children.” International Migration Law, N 15, International Organization for Migration, (2008), p.71

¹² Spindler, William. “The Situation of Separated Children in Central Europe and the Baltic Sattes.” UNHCR and Save the Children Denmark, (October, 2001), p.3

¹³ “Human Rights of Migrant Children,” p.9

in the past years. However, according to all experts interviewed for this project, since the line between those children who might be eligible for asylum and those are just irregular migrants is very blurry, it is easy for them to fall into legal loopholes. “An unaccompanied migrant child can often belong to two different categories at the same time (e.g. an orphan who was internally displaced and subsequently trafficked abroad).”¹⁴ Moreover, as it was discussed above, often children are not aware of the circumstances under which they were forced to flee their countries, even in the cases where the departure was facilitated by their parents. For this matter, all-inclusive legal mechanisms, such as the CRC play a crucial role in terms of the protection of unaccompanied children outside of their state regardless of immigration status.

VI. Legal mechanisms that guarantee protection to all children under international law

All unaccompanied migrant children regardless of whether they are trying to reach the European Union for the economic, personal reasons, or because they seek asylum, form a special category of migrants simply because those under 18 years of legal age are considered children under international law and, therefore, are granted special protections. Most states, including all the members of the European Union and Ukraine are binded by the CRC, which constitutes the foremost international legal instrument to protect and support children’s rights worldwide. The fact that the CRC is the most widely and rapidly ratified human rights treaty indicates states’ commitment to protect children’s rights by prioritizing the best interest of the child in all matters related to children. When it comes to the protection of unaccompanied children, the CRC serves as a crucial legal instrument because the enjoyment of the rights stated in the Convention is not limited to children who are nationals but applies to “all children in the State, including visitors,

¹⁴ “Unaccompanied Children on the Move.” International Organization for Migration Report, (2011), p.14

refugees, children of migrant workers and those irregularly in the State.”¹⁵ In addition, the CRC also obliges the states to align their legislation, policy, and practice with the treaty. In this way, all twenty-seven European Union Member States and most of the States from where unaccompanied children migrate to the EU committed themselves to respect the rights of all children under their national jurisdictions. In addition to the CRC, unaccompanied migrant children are entitled to international protection under international human rights law, international refugee law, international humanitarian law and regional human rights documents. All these documents are interlinked and must be respected and applied throughout the migration process of all migrant children.¹⁶ Therefore, as all experts interviewed for this project emphasized, regardless of the national security interests and needs, the states are obliged to uphold the rights of the children and pursue the best interest of the child under the international treaties regardless of the child’s nationality, citizenship, or immigration status. As IOM legal representative on child migration stated during the interview: “The states are aware of their obligations to ensure special protections for children, but their systems were not prepared to deal with overwhelming numbers of unaccompanied minors; nobody knows what to do with them, so the existing frameworks are still very shaky.” Nevertheless, all experts stressed that the international legal instruments, and the comprehensive CRC in particular, must serve as the most important guidelines for the states, when it comes to the challenges of reception and treatment of unaccompanied migrant children.

VI. Challenges and opportunities of implementing international law instruments to ensure protection of unaccompanied migrant children

The best interest of the child is one of the core principles of the CRC, which must be pursued by all state officials in any planning and policy making processes, as well as the issues

¹⁵ The Convention on the Rights of the Child, (20 November, 1989), Article 2.

¹⁶ Unaccompanied Children on the Move.” International Organization for Migration Report, (2011), p.17

of protection or care of children, including unaccompanied minors. The term “best interest” broadly describes the well-being of a child.¹⁷ Since the best interest of the child depends on the variety of individual circumstances, such as the age, maturity, the presence or absence of parents, cultural and social background, the best interest of the child needs to be examined on an individual basis by taking into account the specific features of each case.¹⁸ However, even though each child’s best interest is a unique conception, its determination involves a formal process with strict procedural safeguards. Child’s best interest determination process has to ideally involve various decision makers from the different areas of expertise and must be based on the core principles defined by the Statement of Good Practice developed by the Separated Children in Europe Programme in cooperation with UNHCR and Save the Children. The Statement of Good Practice “seeks to ensure a common standard for work with separated children across all countries, principally informed by the 1989 UN Convention on the Rights of the Child (CRC) and UNHCR’s 1997 Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum”¹⁹ in accordance with core principles of the CRC, such as the pursuit of the child’s best interest, non-discrimination, participation, survival and development of evolving capacities of the child.²⁰ Currently, the Statement of Good Practice serves as the set of guidelines for the states to align their national laws and practices with international laws, when it comes to the reception and treatment of unaccompanied children migrating to the European Union.

¹⁷ “Best Interest of the Child Information Sheet.” The United Nations High Commissioner on Refugees, (June 2008), www.unhcr.org/4566b16b2.pdf

¹⁸ “The United Nations High Commissioner on Human Rights Guidelines on Determining the Best Interest of the Child.” (May 2008), p.14

¹⁹ Ruxton, Sandy. “Separated Children and EU Asylum and Immigration Policy.” Save the Children, (November, 2003), p.15

²⁰ “Human Rights of Migrant Children.” International Migration Law, N 15, International Organization for Migration, (2008), p.15

According to UNICEF's advocacy and policy specialist, the Statement of good Practice is "a good awareness tool" when it comes to the reception and the status determination of unaccompanied migrant children. However, the practical ways of determining the best interest of a child remain one of the biggest challenges for the EU immigration system. The IOM experts on child migration also emphasize, "international law fails to provide a sufficient clarity as to what the process of the Best Interest Determination entails."²¹ Additional guidelines are crucial in order to prevent misinterpretation of the CRC, especially in relations to national immigration laws and bi-literal agreements, whose primary purpose is to protect the borders and control migration rather than to pursue the best interest of the child. Therefore, UNICEF is developing additional guide on the best interest of the child determination in order to provide further clarifications for the states on how to respond to the specific needs of unaccompanied migrant children.

Nevertheless, when it comes to the reception of unaccompanied minors, the Statement of Good Practice still provides crucial tools to ensure that the best interest of the child is pursued starting with the early stages of the process, such as arrival, initial screening, and identification.²² Migration of unaccompanied children is a complex process that involves many stages of the interaction between the child and the state starting from the reception and ending with the return or integration. Therefore, for the purpose of this paper we will concentrate on the reception stage of unaccompanied children migrants in the EU and will try to distinguish some discrepancies between international obligations and the bi-literal Readmission Agreement that directly or subsequently lead to the violations of children's rights. First of all, according to the Statement of

²¹ "Unaccompanied Children on the Move." International Organization for Migration Report, (2011), p.18

²² "The United Nations High Commissioner on Human Rights Guidelines on Determining the Best Interest of the Child." (May 2008), p.19

Good Practice, the “best interest determination” requires a complex assessment on the child’s identity, such as nationality, ethnicity, age, and social, and cultural background to assess his or her special protection needs. For this reason, the unaccompanied migrant child comes under the jurisdiction of the state once on its territory regardless of his or her immigration status. As it is stated in the Statement of Good Practice, “separated children must never be refused entry to a territory or returned at the point of entry before a determination of their best interests and their need for protection has been undertaken by the competent authorities.”²³ In addition, if an unaccompanied child is identified, or if he or she claims to be a separated child, regardless of whether the further identification of assessment of their age is required, an independent guardian must be appointed right away to advise and protect them.²⁴

VII. The case of Ukraine and the ‘potential’ implications of the Readmission

Agreement on the rights of children migrants

In order to understand how the discrepancies between bilateral agreements and international laws, or rather the misinterpretation of the relationships between the two can lead to the violations of children’s rights guaranteed by the CRC and the Refugee Convention and other international treaties, it is important to analyze the problem of unaccompanied children migrating to the EU through Ukraine through the prism of the Readmission Agreement. The European Union’s decision to open its internal borders put an extra pressure on securing its external borders. Ukraine due to its geographical location between Europe and Asia has become a transit country for many migrants traveling to the EU in search for asylum, work, or for personal reasons, such as reconnecting with families. The World Bank and the UN listed Ukraine as one

²³ “Statement of Good Practice.” Separated Children in Europe Programme, 4th Revised Edition, Ed. Terry Smith, (2009), p.20

²⁴ “Statement of Good Practice,” p.21

of the top ten countries, which receive or send the highest number of migrants.²⁵ Ukraine has become an attractive transit country for migrants because of its inefficient immigration system allowing undocumented residence, relatively inexpensive prices for commodities and shelter with the possibility to work outside of the official market.²⁶ According to Danish Refugee Council, there are at least 200 known unaccompanied children traveling alone each year through Ukraine to Europe.²⁷ However, the numbers are much higher since inaccurate data collection is one of the major problems not only for the developing countries like Ukraine, but also for the European Union itself. Realizing that Ukraine is becoming one of the important transit countries, the EU has negotiated with Ukraine the Readmission Agreement (January, 2010), according to which the members of the European Union can return third country nationals, who supposedly came from Ukraine, which apparently does not apply to children but has been practiced nevertheless.

According to Human Rights Watch, bilateral readmission agreements have become a favored EU mechanism to facilitate the return of migrants and asylum seekers to countries outside the Union.²⁸ The core concept of the readmission agreements is the so-called strategy of “externalization of EU asylum and migration,”²⁹ which seeks to stop the flow of migrants and refugees into the EU by shifting the burden of responsibility on neighboring countries. The agreement assumes that human rights protection system in the countries to which migrants are returned is similar to that of the country that sends them, especially, when it comes to vulnerable

²⁵ Tolstokorova, Alissa. “The Ukrainian Migratory Corridor.” European University Institute, (2011), p.2

²⁶ Ibid., p.2

²⁷ “Conference on unaccompanied minor asylum seekers.” Danish Refugee Council, (October 31, 2011).
<http://www.drc.dk/news/news/artikel/conference-on-unaccompanied-minor-asylum-seekers/?pagewanted=all&cHash=2fc8c284b529679523a5c4d7e858ff3f>

²⁸ “Buffeted in the Borderland: The Treatment of Asylum Seekers and Migrants in Ukraine.” Human Rights Watch, (2010), p. 21

²⁹ Ibid., p.2

groups. However, according to Human Rights Watch report, the Ukrainian Refugee Council, and Jesuit Refugee Service Europe, even though the EU member states were aware of Ukraine's inability to fulfill its obligations to protect the rights of migrants and children in particular, they have preferred to shift responsibility to Ukraine justifying it with financing various projects on migration management.

There are two main problems with this agreement. First of all, the incorrect implementation of the agreement on the side of the EU member states, such as Slovakia and Hungary, results in the violations of the rights of migrants, especially those who seek asylum or are unaccompanied children. Second, even though the agreement assumes that the host country, such as Ukraine, will provide treatments of these 'returned' migrants in a way that guarantees their human rights, Ukraine has proven to be unable to fulfill its responsibilities. Because the agreement sets out a broad procedure for returns, including an accelerated procedure for individuals apprehended near the border as irregular migrants, it creates opportunities for the violations of the rights of vulnerable groups protected by international law in the name of national security and migration control. Human Rights Watch and the Ukrainian Refugee Council documented the cases of unaccompanied children being refused to access to the determination procedure and sent from Slovakia's and Hungary's borders back to Ukraine despite children identifying themselves as being under 18 years of age or declaring their intention to claim refugee status in these countries.

In this way, the EU member states violate their obligations under international law to pursue the best interest of the child because regardless of whether a child seeks asylum or not, unaccompanied migrant children must "come under a State's jurisdiction while attempting to enter the country's territory," and become the responsibility of the state on whose territory they

are.³⁰ Therefore, according to the guidelines, once an unaccompanied child entered the territory of another state, he or she may only be deported if returned to the family, or if a child went through the proper process, including but not limited initial screening and identification, assessment, and appointment of the legal guardian and it was decided that it would be in the child's best interest to be returned to the adequate reception facilities in another safe country. Therefore, the fact that EU immigration authorities in Slovakia and Hungary send unaccompanied children back to Ukraine without proper examination of their needs, does not only violate children's right to seek asylum as articulated in the Convention on the Status of Refugees and the European Charter of Fundamental Rights, but also denies them the special protections guaranteed by the CRC according to which unaccompanied migrant children might not be simply deported without going through proper protocol procedures. Moreover, the agreement between the EU and Ukraine is deficient in many ways because it lacks a specific obligation to ensure that the returnees would have their asylum claims processed in a fair and effective manner upon readmission in Ukraine and that their rights would be respected and protected by the state.

VIII. The violation of children's rights upon their return to Ukraine

Once returned to Ukraine through the accelerated procedures, children find themselves in the country that faces problems of poor governance, widespread corruption, discrimination, lack of training among local agents involved in work with unaccompanied children migrants, and lack of concern for basic human rights. Therefore, children find themselves in the asylum process riddled with obstacles and corruption, including but not limited to lack of access to lawyers in detention, failure to transmit asylum applications to migration services, lack of access to age determination procedures, forgery of documents about children's legal identity and age,

³⁰ Buffeted in the Borderland: The Treatment of Asylum Seekers and Migrants in Ukraine." Human Rights Watch, (2010), p.22

widespread discrimination of religious and ethnic minorities, and prolonged detention. According to Human Rights Watch fact-finding mission report, a number of unaccompanied migrant children have faced detention, where their rights are abused and some even face the inhuman treatment. In some cases, migrants were subjects to torture with electric shocks, while in the custody of Ukraine's State Border Guard Service and during interrogations about smugglers' networks.³¹ Many children were detained for six month, which is against the CRC's guidelines about detention being applicable to children only as the last resort for the shortest period possible. The centers are overcrowded and nutrition is poor. Children are often put in gender-mixed facilities together with adults; the staff is untrained to respond to children's needs or to respect cultural sensitivities. In addition, Ukraine often fails to appoint a legal representative, which does not only violates international law but prevents unaccompanied children from entering asylum procedures.³²

IX. Findings and Conclusions

To conclude, it is clear that Europe has a legitimate right to control its borders. However, the protection of the national border, as it was emphasized by all experts interviewed for this project, cannot come at the expense of the basic human rights violations, especially children, who are not only entitled to special protections under international law but to whom we have moral obligations. Currently, there is no easy solution neither to the problem of unaccompanied children in Europe nor to the growing discrepancies between international law and bi-lateral agreements or national laws and their applications. For example, Human Rights Watch emphasizes that even though the numbers of those who are trying to cross the EU-Ukraine border appear to be falling due to the EU assistance to reinforce border patrols in Ukraine, if the

³¹ "Buffeted in the Borderland: The Treatment of Asylum Seekers and Migrants in Ukraine." Human Rights Watch, (2010), p.8

³² "World Report 2011: Ukraine." Human Rights Watch, (2011), par.6, <http://www.hrw.org/world-report-2011/ukraine>

cases of severe human rights violations still exist, the agreement might have to be re-evaluated, and neighboring countries must stop sending children back to Ukraine without due process.³³ However, at the same time, Simone Troller from Human Rights Watch in Geneva also recognizes that the problem is much more complicated because it is impossible to blame one side without taking into consideration the violations on the opposite.³⁴ Since the agreement is recent, there are not enough studies that analyze the impacts of the agreement or provide the facts about the situation on Ukraine-EU border. As a result of this project, it is clear that there is a need for the deeper analysis of the congruence of the Readmission Agreements with international law. It is also clear that before finding the durable solution that would take into consideration state's needs to protect its borders and the special needs of asylum seekers and unaccompanied children, the two main questions must be answered:

1. Are the violations of the rights of unaccompanied children migrants, when they enter the EU, a result of lack of training among border guards, who are not familiar with international legal obligations and apply measures of accelerated return to keep the numbers of irregular migrants entering to the EU low?
2. Or does the failure to provide protections to unaccompanied children, which the EU is obliged to under international law, serves as an indicator of the EU's priorities to control migration despite the fact that the bilateral agreement if not results in the major human rights violations, but at least facilitates them on both sides of the border?

Experts from IOM and UNICEF agreed that in order to conduct a deeper analysis and answer these questions, more border-monitoring field studies focusing on the implications of the

³³ Troller, Simone. Human Rights Watch in Geneva, France 24 Channel, TV interview, http://www.youtube.com/watch?v=qBhZZKASv_E&feature=channel_video_title

³⁴ Ibid.

Readmission Agreement on the rights of asylum seekers and unaccompanied children in particular need to be conducted. As a result of this project, future research on the topic and possible field studies might be conducted.

In a mean time, human rights monitoring NGOs, Ukrainian Refugee Council and Danish Refugee Council are concerned with imminent problems, such as violations of the rights of unaccompanied children. They also agree that shifting the responsibility for protection of asylum seekers and unaccompanied migrant children to Ukraine, which is unable to fulfill its responsibilities without violating basic human rights, was not a good idea. Despite claiming to spend money on border control between Ukraine and the EU, the EU “member states have provided virtually no human burden sharing as part of a managed migration scheme to provide a legal and orderly means of admitting refugees who, as yet, have very few avenues to enter EU member states legally to seek protection.”³⁵ Therefore, human rights observers are mostly concerned with improving the lives of unaccompanied children and asylum seekers by pressing Ukrainian state authorities to focus on improving guarantees for the human rights safeguards of the vulnerable group of unaccompanied children.³⁶ In addition, the Danish Refugee Council has been working on supporting the government of Ukraine to fulfill its obligations towards vulnerable asylum seeking and refugee children by helping to develop legal and institutional systems and models of temporary care for unaccompanied asylum seeking children, as well as to assist them with integration, if they are granted refugee status in Ukraine.³⁷

³⁵ Buffeted in the Borderland: The Treatment of Asylum Seekers and Migrants in Ukraine.” Human Rights Watch, (2010), p.29

³⁶ “The EU-Ukraine Readmission Agreement – Myths, Facts and Risks.” Press statement, Ukrainian Refugee Council, p.2

³⁷ “Refugee Children in Ukraine.” Danish Refugee Council (March 4, 2010), <http://www.drc.dk/news/news/artikel/refugee-children-in-ukraine>

The age of globalization will bring new challenges of migration. One thing is clear: protection of the borders can never come at the expense of human rights, especially children, for whom states are obliged to ensure special protections. As a result of this research, it is clear that it is important not to use transit countries that are not capable of upholding their obligations to protect human rights as buffer zones. Most importantly, once unaccompanied children managed to enter the EU, they should never be sent back by the border guards without the following the protocol outlined in the Statement of Good Practice. In addition, the assistance must always pursue the best interest of the child regardless of the national migration policies. It is crucial for the organizations involved in migration or children issues as well as civil society to cooperate in order to reinforce awareness about specific needs of unaccompanied migrant children and to create frameworks of good practices that pursue child's best interest and share these practices across regions and countries.

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